

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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|-----------------------------|---|----------------------------------|
| GREAT AMERICAN LINES, INC., |) | |
| |) | |
| Plaintiff, |) | Case No. 2:12-cv-988 |
| |) | |
| v. |) | Judge Joy Flowers Conti |
| |) | Chief Magistrate Judge Lisa Pupo |
| SANOFI-AVENTIS U.S., LLC, |) | Lenihan |
| <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | ECF Nos. 7 & 18 |
| |) | |

MEMORANDUM ORDER

The Complaint in the above captioned case was received by the Clerk of Court on July 13, 2012, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Rules of Court 72.C and 72.D.

The Magistrate Judge's Report and Recommendation (ECF No. 32), filed on January 22, 2013, recommended that the Motion to Dismiss (ECF No. 7) filed by Defendant Logistics & Distribution Services Corp. ("LDS") for lack of subject matter jurisdiction under Rule 12(b)(1) be denied, and for improper venue under Rule 12(b)(3) be denied with leave to refile said motion if it is determined that the Master Agreement governs the dispute between Great American Lines and LDS. The Report and Recommendation further recommended that LDS' motion to stay (ECF No. 18) the cross-claim of Sanofi-Aventis U.S., LLC ("Sanofi") be denied. Service was made on all counsel of record. The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Rules of

Court, that they had fourteen (14) days to file any objections. No objections were filed to the Report and Recommendation.

After review of the pleadings and documents in the case, together with the Report and Recommendation, the following Order is entered:

AND NOW, this 14th day of February, 2013,

IT IS HEREBY ORDERED that the Motion to Dismiss (ECF No. 7) filed by Defendant Logistics and Distribution Services Corp. under Rule 12(b)(1) for lack of subject matter jurisdiction is **DENIED**.

IT IS FURTHER ORDERED that the Motion to Dismiss (ECF No. 7) filed by Defendant Logistics and Distribution Services Corp. under Rule 12(b)(3) for improper venue is **DENIED**, but Defendant Logistics and Distribution Services Corp. shall be allowed to refile said motion if it is determined that the Master Agreement governs the dispute between Great American Lines and Logistics and Distribution Services Corp.

IT IS FURTHER ORDERED that Cross-Claim Defendant Logistics and Distribution Services Corp.'s Motion to Stay (ECF No. 18) the Cross-Claim of Sanofi-Aventis U.S., LLC be **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 32) of Chief Magistrate Judge Lenihan, dated January 22, 2013, is adopted as the opinion of the Court.

/s/ Joy Flowers Conti
Joy Flowers Conti
United States District Judge

cc: All Counsel of Record
Via Electronic Mail